

If you need assistance completing this application (general inquires only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2<sup>nd</sup> Floor (One Texas Center).

CASE # 0152010-0142  
ROW # 10513114  
TP- 0239200121

**CITY OF AUSTIN**  
**APPLICATION TO BOARD OF ADJUSTMENT**  
**GENERAL VARIANCE/PARKING VARIANCE**

**WARNING: Filing of this appeal stops all affected construction activity.**

**PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.**

STREET ADDRESS: 850 East Rundberg Lane, Austin Texas 78753

LEGAL DESCRIPTION: Subdivision – Northcape Section C-3

Lot(s) 1-B Block \_\_\_\_\_ Division REFID2 02392001210000

I/We Manny Duarte, P.E. on behalf of myself as authorized agent for

Shawn Thai affirm that on November 2, 2010

hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below)

☐ ERECT ☐ ATTACH ☒ COMPLETE ☐ REMODEL ☒ MAINTAIN

an existing retail center that has an approved site plan (SP-2009-0194C) and is asking for 4 variances. (A) Leave existing sidewalk due to existing utilities and due to existing grades to steep to meet Subchapter E, Section 2.2.3. (B) Glazing from north, east and south sides of building due to no public view. Subchapter E, Section 3.2.2.B (C) Mechanical screening from north, east and south sides due to no public view. Subchapter E, Section 2.6.2.A (D) Build approved site plan 4' wide canopy for new building. Jan Adler is requiring 6' sidewalks, Subchapter E, Section 3.2.3

"GR" zoning

**NOTE:** The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

**VARIANCE FINDINGS:** I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

See Attached Letter

**HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that:

See Attached Letter.

- (b) The hardship is not general to the area in which the property is located because:

See Attached Letter

**AREA CHARACTER:**

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

See Attached Letter

**PARKING:** (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

No parking variance requested as 5 spaces are required (1 space and 1 space for each rental unit). There are 4 rental units and one space for the owner for a total of 5 spaces onsite now. See attached site plan.

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

N/A

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

See Attached Letter

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

See Attached Letter

**NOTE:** The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

**APPLICANT CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed  Mail Address 608 Candleberry Circle

City, State & Zip Pflugerville, Texas 78660

Printed Manny Duarte, P.E. Phone (512) 947-5537 Date 11/02/10

**OWNERS CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed \_\_\_\_\_ Mail Address 850 East Rundberg Lane

City, State & Zip Austin, TX 78753

Printed Son Thai Phone (512) 626-3964 Date 11/02/10

**To Whom It May Concern:**

There are 4 variances being requested. Below is a summary of each with the reasons:

**1. Variance request to leave existing sidewalk as is today (Subchapter E, Section 2.2.3)**

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

Property is zoned as GR, Community Commercial

**HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that:

The existing retail center has been at the same location for years. Due to existing grades, the site was raised when built over 30 years ago. This has created a steep driveway to the existing retail center. Owner is doubling the retail space with an approved site plan (SP-2009-0194C) and is required to install a 7' street tree/furniture zone and a 6' required clear zone. Due to the site being much higher than the other businesses surrounding the site, it is not possible to install the 13' sidewalk without meeting ADA and Fire Dept access regulations. See attached pictures.

- (b) The hardship is not general to the area in which the property is located because:

It is not possible to get the 13' sidewalk and meet both ADA and Fire Dept. access requirements.

**AREA CHARACTER:**

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

All other businesses in the area have their existing parking lots and businesses at a lower level than the project here.

**PARKING:** (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with

respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

No parking variance requested

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

N/A

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

Parking rules have been met and approved on site plan SP-2009-0194C and will have no effect on granting this variance.

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

N/A.

## **2. Variance request for glazing on the north, east and south sides of the new retail center (Subchapter E, Section 3.2.2.B).**

### **REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

Property is zoned as GR, Community Commercial.

### **HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that:

The new building that is 5' north of the existing building (south side of new building) cannot be seen from the public. In addition the east and north sides are away from the public as there is a private school to the east of the new building and a dairy distribution center to the north

- (b) The hardship is not general to the area in which the property is located because:

The south, north and east sides of the new building are not viewable to the public.

**AREA CHARACTER:**

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

The existing building has over 40% glazing on the west side. The new building will match the same 40% or more glazing to match the existing retail center.

**PARKING:** (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

No parking variance requested

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

N/A

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

Parking rules have been met and approved on site plan SP-2009-0194C and will have no effect on granting this variance

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

N/A.

**3. Variance request for mechanical screening on the north, east and south sides of the new retail center (Subchapter E, Section 2.6.2.A).**

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

Property is zoned as GR, Community Commercial.

**HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that:

The new retail center will have a parapet wall on the west side of the building to screen any mechanical equipment. The new retail center that is 5' north of the existing building (south side of new building) cannot be seen from the public. In addition the east and north sides are away from the public as there is a private school to the east of the new building and a dairy distribution center to the north. There will be no view of the mechanical equipment from the public's view. See attached pictures.

- (b) The hardship is not general to the area in which the property is located because:

The south, north and east sides of the new building are not viewable to the public.

**AREA CHARACTER:**

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

The existing building has a parapet wall and the new building will match the existing parapet wall to screen any mechanical equipment.

**PARKING:** (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

No parking variance requested.

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

N/A

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

Parking rules have been met and approved on site plan SP-2009-0194C and will have no effect on granting this variance.

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

N/A

#### **4. Variance request for 6' canopy required by Jan Adler, Design Standards Review (Subchapter E, Section 3.2.3).**

##### **REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

Property is zoned as GR, Community Commercial.

##### **HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that:

It is not indicated in Subchapter E, Section 3.2.3., the depth of the canopies. Due to the existing retail center having a 4' wide canopy, the owner is requesting to match the new retail center with the same 4' wide canopy over the entire west side of the new retail center.

(b) The hardship is not general to the area in which the property is located because:

Subchapter E, Section 3.2.3 does not indicate 6' wide canopies over sidewalks.

##### **AREA CHARACTER:**

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

The new retail center will match the existing retail center's sidewalk cover and will include all of the west side of the new building. This will enhance the uniqueness of the old and new retail center.

##### **PARKING:** (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:



1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

No parking variance requested.

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

N/A

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

Parking rules have been met and approved on site plan SP-2009-0194C and will have no effect on granting this variance

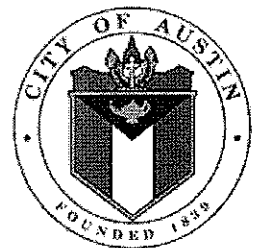
4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

N/A.





## BOARD OF ADJUSTMENTS

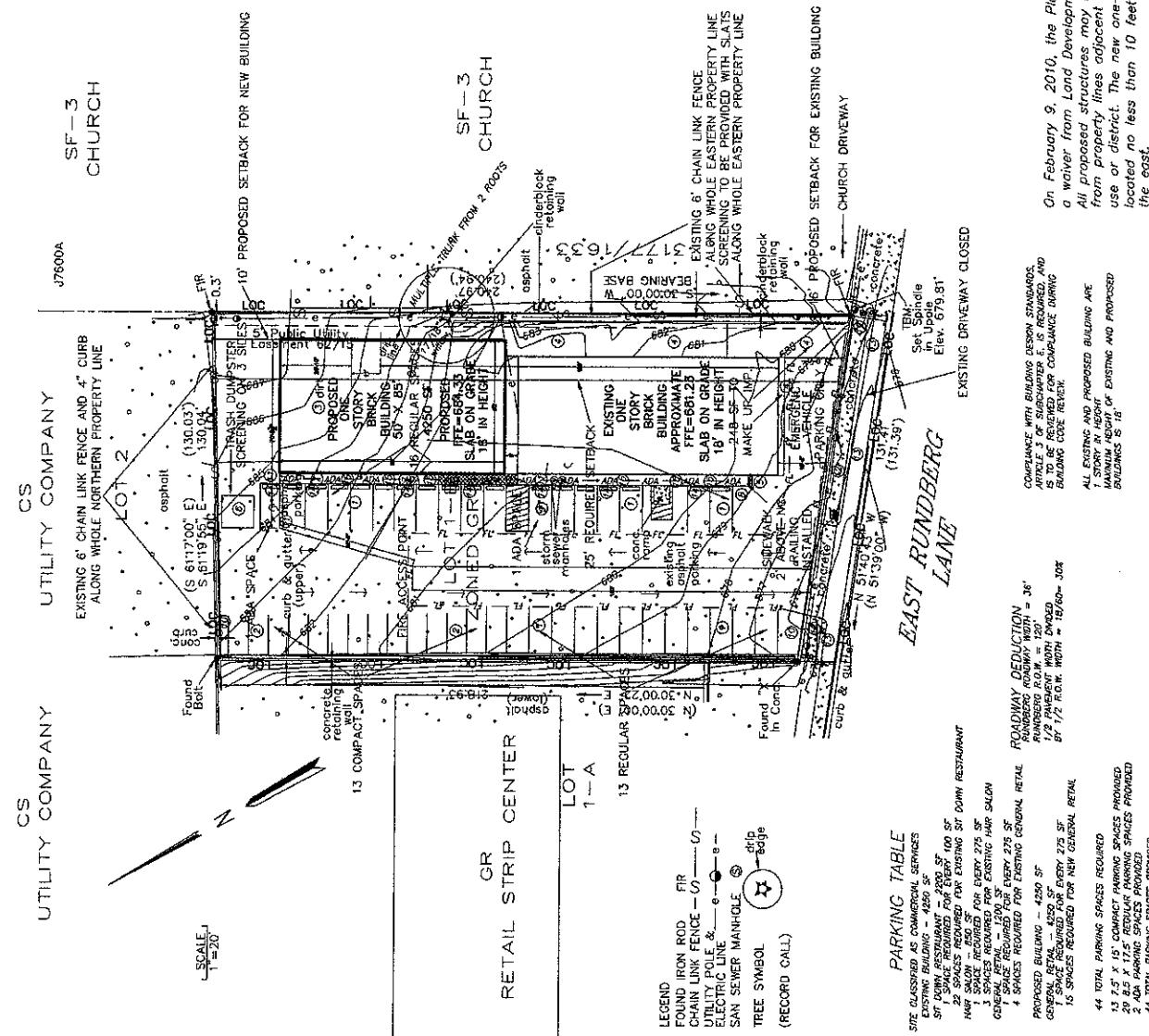
CASE#: C15-2010-0142  
 LOCATION: 850 E RUNDBERG LN  
 GRID: M30  
 MANAGER: SUSAN WALKER



This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



 SUBJECT TRACT  
 ZONING BOUNDARY



**IMPERVIOUS TABLE**  
TOTAL SITE AREA = 29,887 S.F. = 0.686 ACRES  
TOTAL EXISTING IMPERVIOUS COVER = 26,306 S.F. = 0.581 ACRES = 84.8% IMPERVIOUS COVER  
TOTAL PROPOSED IMPERVIOUS COVER = 25,302 S.F.  
TOTAL PROPOSED IMPERVIOUS COVER = 84.8% IMPERVIOUS COVER  
TOTAL NEW BUILDING COVER = 4,250 S.F.  
BUILDING COVER = 14.6% IMPERVIOUS COVER

**SITE PLAN RELEASE NOTES**  
1. ALL IMPROVEMENTS SHALL BE IN ACCORDANCE WITH THE RELEASED SITE PLAN.  
2. ANY ADDITIONAL IMPROVEMENTS WILL REQUIRE SITE PLAN AMENDMENT AND APPROVAL OF THE INTERESTED PROTECTION DEVELOPMENT REVIEW DEPT.  
3. APPROVAL OF THIS SITE PLAN DOES NOT INCLUDE BUILDING AND FIRE CODE APPROVAL NOR BUILDING PERMIT APPROVAL.  
4. ALL SIONS MUST COMPLY WITH REQUIREMENTS OF THE LAND DEVELOPMENT CODE.  
5. ADDITIONAL ELECTRICAL PERMITS MAY BE REQUIRED AT A LATER DATE.  
6. WATER AND WASTEWATER SERVICE WILL BE PROVIDED BY THE CITY OF AUSTIN.  
7. A DEVELOPMENT PERMIT MUST BE OBTAINED FROM THE CITY OF AUSTIN FOR BUILDING PERMIT FOR NON-CONSOLIDATED OR PLANNING COMMISSION REVIEW.  
8. FOR DRIVEWAY CONSTRUCTION, THE OWNER IS RESPONSIBLE FOR ALL COSTS FOR IN THE ROW.  
9. SCREENING FOR SOLID WASTE COLLECTION AND LOADING AREAS SHALL BE THE SAME AS OR OF TOTAL QUALITY TO PRINCIPAL BUILDING MATERIALS.  
10. SUBMITTER SHALL BE RESPONSIBLE FOR OBTAINING THE BUILDING PERMIT REVIEW, ANY CHANGE OR SUBSTITUTION OF LAND/USE FEATURES SHALL BE SUBMITTED TO THE DIRECTOR FOR APPROVAL IN ACCORDANCE WITH SECTION 25.5.E  
11. ALL EXISTING STRUCTURES SHOWN TO BE REMOVED WILL REQUIRE A DEMOLITION PERMIT FROM THE CITY OF AUSTIN INTERESTED PROTECTION AND DEVELOPMENT REVIEW DEPT.  
12. FOR CONSTRUCTION IN THE RIGHT-OF-WAY, A ROW EXCAVATION PERMIT IS REQUIRED.

- LEGEND**
- ① STD. 8.5' x 17.5' PARKING SPACES
  - ② COMPACT 7.0' x 15' PARKING SPACES, EACH COMPACT PARKING SPACE/ASLE WILL BE SIGNED "SMALL CAR ONLY"
  - ③ NEW 4,250 S.F. COMMERCIAL, 15' IN HEIGHT, FFE=537.50' REF. OTHERS
  - ④ NEW GRASS AND TREE AREA, SEE DEMO SHEET FOR REMOVAL OF ASPHALT
  - ⑤ SEE LANDSCAPE PLAN FOR LAYOUT, PROTECTION VIA RETAINING WALL AND 8" CURB
  - ⑥ PROPOSED STAGING
  - ⑦ PROPOSED 12' x 12' DUMPSTER AREA WITH SCREENING ON 3 SIDES
  - ⑧ TYPICAL 4' WIDE SIDEWALK, MIN. 22' CROSS SLOPE
  - ⑨ PROPOSED BICYCLE RACK, 4 TOTAL
  - ⑩ PROPOSED VAN HANDICAP PARKING SPACE, ASPHALT
  - ⑪ PROPOSED STAGED AREA
  - ⑫ PROPOSED HANDICAP PARKING, INTERNATIONAL SYMBOL MUST BE INCLUDED ON SIGN AND STATE "RESERVE" AND LOCATED 80' ABOVE THE GROUND
  - ⑬ PROPOSED ALTERNATIVE COMPLIANCE FOR SIDEWALKS, 6' WIDE
  - ⑭ STREET TREE PLANTING ZONE, 7' WIDE
  - ⑮ ALL BUILDING SIDE PARKING SPACES WILL HAVE WHEELSTOPS
  - ⑯ EXISTING BUILDING 4' WIDE AWNING AND NEW 4' WIDE AWNING OVER NEW BUILDING
  - ⑰ PROPOSED NEW LIGHTING, SEE DETAIL THIS SHEET
- LOC --- LIMITS OF CONSTRUCTION  
FL --- FINE LANE  
ADA --- ADA ACCESS  
1:12 SIDEWALK FOR 30' RUN  
TRAFFIC PATTERNS

**PARKING TABLE**  
SITE CLASSIFIED AS COMMERCIAL SERVICES  
SF DOWN RESTAURANT = 2,200 SF  
22 SPACES REQUIRED FOR EXISTING SF DOWN RESTAURANT  
HAB. SALON = 850 SF  
3 SPACES REQUIRED FOR EXISTING HAB. SALON  
GENERAL RETAIL = 1,200 SF  
4 SPACES REQUIRED FOR EXISTING GENERAL RETAIL  
PROPOSED BUILDING = 4,250 SF  
COMPT. SPACE REQUIRED FOR NEW GENERAL RETAIL  
15 SPACES REQUIRED FOR NEW GENERAL RETAIL  
44 TOTAL PARKING SPACES REQUIRED  
13 2.5' x 15' COMPACT PARKING SPACES PROVIDED  
20 8.5' PARKING SPACES PROVIDED  
44 TOTAL PARKING SPACES PROVIDED

**ROADWAY DEDUCTION**  
RUNDBERG ROADWAY WIDTH = 38'  
RUNDBERG ROADWAY WIDTH = 120'  
BT 1/2' R.O.W. WIDTH = 16'60" - 30"

**COMPLIANCE WITH BUILDING DESIGN STANDARDS, ARTICLE 3 OF SUBCHAPTER 6, IS REQUIRED, AND BUILDING CODE REVIEW**  
ALL EXISTING AND PROPOSED BUILDING ARE ALL STORY IN HEIGHT OF EXISTING AND PROPOSED BUILDINGS S-18

On February 9, 2010, the Planning Commission approved a waiver from Land Development Code Section 25-2-1063(B) All proposed structures may not be constructed within 25 feet from property lines adjacent to an SF-5 or more restrictive use or district. The new one-story building is shown to be located no less than 10 feet away from the property line to the east.



Existing building with parapet wall  
(Looking east)

08/08/2008



Existing building  
with parafit  
wall  
Clothing south

06/08/2009



**1. Looking west from western driveway. 2.5' change in elevation from sidewalk to parking lot.**



**2. Looking east from western driveway. Cleanouts and water meter located in grass area between driveways.**





**3. Looking east from eastern driveway. WW manhole and utility pole located On southeastern property corner. 2' change in elevation from sidewalk to pole.**



**4. Looking east from western property line in parking lot.**









